

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16067 of Steven A. Goldberg, Patrick J. Keeley, Gerard A. Cerand and Mark Richardson, as amended, pursuant to 11 DCMR 3108.1 for a special exception under Subsection 353.1 to allow new residential development for the subdivision and construction of eight single-family row dwellings in an R-5-A District at premises 4407-23 MacArthur Boulevard, N.W. (Square 1363, Lots 18-21).

HEARING DATES: July 26 and September 13, 1995 and January 17, 1996
DECISION DATE: February 7, 1996

SUMMARY ORDER

The application was originally scheduled for the public hearing of July 26, 1995. At the request of the applicant, the hearing was postponed to the public hearing of September 13, 1995. The hearing was then postponed by the Board to allow the applicants time to determine whether they wished to go forward with the project. The hearing was rescheduled to January 17, 1996.

The application has been amended by the applicant to eliminate the original variances requested under 11 DCMR 403.2 (lot occupancy) and 402.4 (floor area ratio). The application only requests a special exception under 11 DCMR 353.1 to allow new residential development.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2E and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2E. ANC 2E, which is automatically a party to the application, submitted written issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 353.1. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting

BZA APPLICATION NO. 16067
PAGE NO. 2

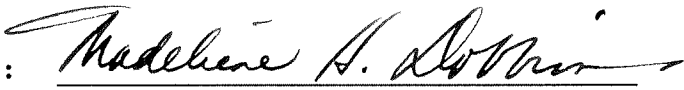
the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the subdivision and construction being completed in accordance with the revised plans marked as Exhibit No. 34 of the record.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

Angel F. Clarens read the record and participated in the decision.

VOTE: 4-0 (Susan Morgan Hinton, Sheila Cross Reid, Angel F. Clarens and Laura M. Richards to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: 
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: MAR 19 1996

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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BZA APPLICATION NO. 16067

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 19 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

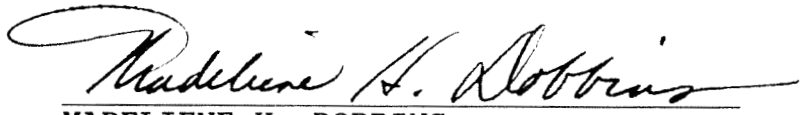
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MADELIENE H. DOBBINS
Director

DATE: MAR 19 1996